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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

TOMAS CZODOR,

Plaintiff and Respondent,

v.

XINGFEI LUO,

Defendant and Appellant.

G056955

(Super. Ct. No. 18V002374)

O P I N I O N

Appeal from an order of the Superior Court of Orange County, Renee E. Wilson, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

Xingfei Luo, in pro. per., for Defendant and Appellant.

Law Offices of Larry R. Glazer and Nicolette Glazer for Plaintiff and Respondent.

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The court issued a domestic violence restraining order (DVRO) in favor of plaintiff and respondent Tomas Czodor against defendant and appellant Xingfei Luo pursuant to the Domestic Violence Prevention Act (DVPA; Fam. Code, § 6200 et seq.; all further statutory references are to the Family Code). Under the governing standard of review on appeal we must presume the order is correct unless defendant meets her burden to demonstrate error. (*Jameson v. Desta* (2018) 5 Cal.5th 594, 608-609 (*Jameson*).) As detailed below, she failed to do so. Thus, we affirm the order.

FACTS AND PROCEDURAL HISTORY

Plaintiff and defendant had a very short relationship, a matter of weeks, after they met on a dating Web site. When plaintiff sent a message to defendant through the dating Web site to stop contacting him, defendant called plaintiff numerous times using several different phone numbers, which plaintiff had to block. Defendant also created fake Facebook, Instagram, and Yelp accounts with plaintiff's name showing naked pictures of him. She sent those pictures to plaintiff's various friends and business acquaintances.

One evening defendant appeared at plaintiff's residence and when he would not talk to her, she "scratched [his] door for about 20 minutes." Plaintiff asked defendant to leave several times but she refused. A friend of plaintiff's witnessed this and suggested plaintiff call 911, which plaintiff did. When police arrived they suggested plaintiff obtain a restraining order.

Plaintiff filed a request for a DVRO, alleging he and defendant were in a dating relationship. The request sought to prevent defendant from contacting, harassing, threatening, stalking, or impersonating plaintiff, on the Internet, electronically, or otherwise; to require defendant to stay 100 yards away from him, including on Facebook, online, or at his company; to prevent defendant from bullying plaintiff online, contacting family and friends, sending "inappropriate" pictures, blogs, and videos; and to require

removal of Internet content created by defendant to “destroy [plaintiff’s] online reputation.” In the request plaintiff stated he did not know if defendant owned a firearm.

The request detailed defendant’s various actions to support his claim of abuse. Plaintiff included screenshots of text messages and copies of postings. In her response, defendant asserted plaintiff’s allegations were false. The court issued a temporary order and set a hearing.

After a hearing the court found defendant had perpetrated acts of domestic violence on plaintiff, and issued a DVRO to expire in 2023. In so doing, it found plaintiff and his evidence were credible and defendant “was evasive” regarding posting pictures of plaintiff online. The minute order stated the DVRO was “pursuant to the Restraining Order After Hearing signed and filed this date.” There is no copy of the DVRO in the record.

DISCUSSION

1. Principles of Appellate Review

“[I]t is a fundamental principle of appellate procedure that a trial court judgment is ordinarily presumed to be correct and the burden is on an appellant to demonstrate, on the basis of the record presented to the appellate court, that the trial court committed an error that justifies reversal of the judgment.” (*Jameson, supra*, 5 Cal.5th at pp. 608-609.) An adequate record is required to show error. (*Parker v. Harbert* (2012) 212 Cal.App.4th 1172, 1178.) “[I]f it is not in the record, it did not happen.” (*Protect Our Water v. County of Merced* (2003) 110 Cal.App.4th 362, 364.) “Failure to provide an adequate record on an issue requires that the issue be resolved against [the appellant].” (*Jameson*, at p. 609.)

Since defendant seeks to raise issues that require “consideration of the oral proceedings in the superior court” (Cal. Rules of Court, rule 8.120(b); all further references to rules are to the California Rules of Court), she was required to provide a reporter’s transcript. Without that transcript we have no idea what occurred during the

hearing except what is noted in the minute orders, and we cannot make any determination as to the sufficiency of the evidence or whether the court abused its discretion. (*Oliveira v. Kiesler* (2012) 206 Cal.App.4th 1349, 1362 (*Oliveira*).) “[N]or can we assess the merits of [any] contentions about certain rulings or statements made by the trial court during the hearings in question.” (*Rhule v. WaveFront Technology, Inc.* (2017) 8 Cal.App.5th 1223, 1228-1229, fn. omitted.)

In addition, defendant was required to provide authority and reasoned legal argument in support of her claimed errors. (*Benach v. County of Los Angeles* (2007) 149 Cal.App.4th 836, 852 (*Benach*).) Her failure to do so forfeits the issues. (*Ibid.*)

As the appellant, defendant was also required to “[p]rovide a summary of the significant facts limited to matters in the record.” (Rule 8.204(a)(2)(C).) She failed to do so. And, because at least one of her arguments is based on sufficiency of the evidence, she was required but failed to ““summarize the evidence on that point, favorable and unfavorable, and show how and why it is insufficient.”” (*Huong Que, Inc. v. Luu* (2007) 150 Cal.App.4th 400, 409, italics omitted.) We are not required to independently examine the record when the appellant has failed to do so. (*Ibid.*)

Defendant was also required to “[s]upport any reference to a matter in the record by a citation to the volume and page number of the record where the matter appears.” (Rule 8.204(a)(1)(C); *Schmidlin v. City of Palo Alto* (2007) 157 Cal.App.4th 728, 738 [“‘It is neither practical nor appropriate for us to comb the record on [a party’s] behalf’”].) Because she failed to do so, we may disregard any facts or arguments not supported by adequate citations to the record. (*Villanueva v. Fidelity National Title Co.* (2018) 26 Cal.App.5th 1092, 1110-1111, fn. 8 (*Villaneuva*).)

These rules apply even to parties representing themselves. A self-represented litigant is not entitled to “special treatment” (*Stebly v. Litton Loan Servicing, LLP* (2011) 202 Cal.App.4th 522, 524) but is held to the same standards as a party represented by counsel (*Kobayashi v. Superior Court* (2009) 175 Cal.App.4th 536, 543).

2. DVPA Principles and Standard of Review

The DVPA was enacted to prevent “prevent acts of domestic violence, abuse, and sexual abuse and to provide for a separation of the persons involved in the domestic violence for a period sufficient to enable these persons to seek a resolution of the causes of the violence.” (§ 6220.) A protective order may issue if the court is satisfied the moving party provides “reasonable proof of a past act or acts of abuse.” (§ 6300.)

“Generally, a trial court has broad discretion in determining whether to grant a petition for a restraining order under this statutory scheme.” (*In re Marriage of Fregoso & Hernandez* (2016) 5 Cal.App.5th 698, 702 (*Fregoso*).) In determining whether the court properly exercised its discretion we consider ““whether the trial court exceeded the bounds of reason. When two or more inferences can reasonably be deduced from the facts, the reviewing court has no authority to substitute its decision for that of the trial court.”” (*Ibid.*)

We review the court’s factual findings for substantial evidence, that is, ““whether, on the entire record, there is any substantial evidence, contradicted or uncontradicted,’ supporting the court’s finding. [Citation.]” (*Sabbah v. Sabbah* (2007) 151 Cal.App.4th 818, 822-823, italics omitted.) ““We must accept as true all evidence . . . tending to establish the correctness of the trial court’s findings . . . , resolving every conflict in favor of the judgment.”” (*Id.* at p. 823.) It is not our role to reweigh the evidence, redetermine the credibility of the witnesses, or resolve conflicts in the testimony, and we will not disturb the order if, as here, there is evidence to support it. (*People v. Xiong* (2013) 215 Cal.App.4th 1259, 1268.)

2. Substantial Evidence

Defendant challenges the DVRO, claiming there was no substantial evidence she damaged plaintiff’s door or sent the nude photographs.

She also asserts there was insufficient evidence to support the court's finding plaintiff's mental peace had been destroyed. This argument fails for several reasons.

First, in setting out the statement of facts defendant failed to include any record references in violation of rule 8.204(a)(1)(C). Second, she did not include a summary of all the material evidence, instead setting out only a one-sided version of the facts in her favor. Likewise, defendant's argument on this issue lacked any citation to the record. Thus, we may disregard the alleged facts and arguments. (*Villanueva, supra*, 26 Cal.App.5th at pp. 1110-1111, fn. 8.)

Even if we wanted to consider the argument on the merits we could not do so because there is no reporter's transcript and we have no idea of the testimony and evidence presented at the hearing. Thus, defendant is unable to show any error. (*Jameson, supra*, 5 Cal.5th at pp. 608-609.)

3. *Constitutional Claims*

Defendant contends the court violated her Second and Fourteenth Amendment rights, arguing there was no justification for restricting her right to a firearm. We disagree.

As noted, the record does not contain a copy of the DVRO so we do not know its contents. As set out above, this issue is forfeited for lack of a sufficient record.

Even if considered on the merits the argument fails. A similar Second Amendment argument was made and rejected in *Altafulla v. Ervin* (2015) 238 Cal.App.4th 571, 581-582 where the court affirmed issuance of a DVRO, including a firearm restriction.

Other than quoting the Fourteenth Amendment defendant made no argument as to its applicability. Thus, in addition to all the other reasons set forth above, the claim is forfeited for failure to set out authority or reasoned legal argument. (Rule 8.204(a)(1)(B); *Benach, supra*, 149 Cal.App.4th at p. 852.)

4. Totality of Circumstances

Mistakenly citing section 6340, subdivision (c), defendant asserts that in deciding whether to grant a DVRO the court must “consider the totality of the circumstances.” (§ 6301, subd. (c).) She contends the court failed to do so here. We are not persuaded.

As noted, the court has broad discretion in ruling on a request for a DVRO. (*Fregoso, supra*, 5 Cal.App.5th at p. 702.) Defendant’s unsubstantiated claim plaintiff would not be jeopardized if the DVRO was denied does not show the court abused its discretion. Further, the case on which defendant relies, *Fischer v. Fischer* (2018) 22 Cal.App.5th 612, was ordered depublished and thus is not valid authority.

Finally, based on the absence of record references and lack of a reporter’s transcript, we have no way of knowing what the court actually considered. Thus, we must presume the court considered the totality of the circumstances and properly exercised its discretion in ordering the DVRO.

DISPOSITION

The order is affirmed. Plaintiff is entitled to costs on appeal.

THOMPSON, J.

WE CONCUR:

MOORE, ACTING P. J.

IKOLA, J.